

## **REMARKS**

This paper is presented in response to the Office Action mailed January 5, 2007. By this paper claims 1, 23, and 24 are amended and no claims are added or cancelled. Accordingly, claims 1-13 and 15-25 remain pending.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and any references cited by the Examiner, and/or the merits of additional or alternative arguments.

### **II. Rejection of Claims 1-13 and 15-25 under 35 U.S.C. § 103**

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there

must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP* § 2143.

**a. Rejection based on *Nosu* and *Yamauchi* combination**

The Examiner has rejected claims 1-13, 15, and 18-25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,244,045 to *Nosu* et al. ("*Nosu*") in view of U.S. Patent No. 7,038,778 to *Yamauchi* ("*Yamauchi*"). Applicant respectfully disagrees, and submits that for at least the reasons set forth below, the rejection of claims 1-13, 15, and 18-25 should be withdrawn. Of the rejected claims, claims 1, 23 and 24 are independent claims.

As shown above, independent claim 1 has been amended to recite in part "a plurality of subassemblies, each subassembly comprising: an optoelectronic transducer supported by a substrate; and an associated optical system that includes a lens attached to the substrate, wherein the lens is unique to the subassembly." (Emphasis added). Similar amendments have been made to independent claims 23 and 24.

The Examiner admits on page 3 of the Office Action that *Nosu* does not teach that an optoelectronic transducer is supported by a substrate that includes a lens attached to the substrate. Instead, the Examiner relies on *Yamauchi*, specifically Figure 1, to purportedly show these limitations of claims 1, 23, and 24. As an initial matter, Applicants again note that it appears that the Examiner has asserted that element 15 of *Yamauchi* corresponds to the substrate recited in claim 1.<sup>1</sup> Notwithstanding this assertion, Applicant again respectfully submits that the disclosure of *Yamauchi* does not support this assertion. For example, element 15 is disclosed in *Yamauchi* simply as corresponding to "a casing (cylindrical body)" in which components used to construct a spectroscopic instrument 1 "are housed." Col. 4, lines 26-28. Applicant can find no disclosure in *Yamauchi* that this casing corresponds to a substrate. In fact, Applicant can find no mention within *Yamauchi* of an optical transducer mounted on or associated with a substrate, contrary to the assertion of the Examiner.

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<sup>1</sup> Although in the rejection the Examiner has apparently equated separate elements 11 and 15 to the substrate of claim 1, it appears that the Examiner meant to equate element 11 to the lens instead of the substrate. If this reading is incorrect, please advise accordingly.

Furthermore, claims 1, 23, and 24 as pending recite that each subassembly includes both a transducer supported by a substrate and an associated optical system that includes a lens attached to the substrate. In other words, each of the subassemblies has a unique lens associated with it. As noted, Applicant has amended claims 1, 23, and 24 to more fully clarify that each subassembly includes a lens unique to that subassembly.

This is far different from what is taught in Figure 1 of *Yamauchi* where a single lens 11 appears to be shared by the plurality of subassemblies comprising spectrometer 13. In other words, *Yamauchi* does not teach or suggest a plurality of subassemblies that each includes an optoelectronic transducer supported by a substrate and an associated optical system that includes a lens attached to the substrate, wherein the lens is unique to the subassembly as recited in claims 1, 23, and 24.

Inasmuch as the Examiner has failed to establish that *Nosu* and *Yamauchi*, when combined in the purportedly obvious fashion, teach or suggest all of the claim limitations of amended claims 1, 23, and 24, the Examiner has failed to establish a *prima facie* case of obviousness for claims 1, 23, and 24. Accordingly, the Applicant respectfully requests that the obviousness rejection be withdrawn from claims 1, 23, and 24.

Claims 2-13, 15, 18-22, and 25 all depend from claim 1. Accordingly, these claims include the claim limitations of claim 1 and are therefore patentable over the purported combination of *Nosu* and *Yamauchi* for at least the reasons previously discussed in relation to claim 1. Applicant respectfully requests that the obviousness rejection be withdrawn from these claims.

**b. Rejection based on *Nosu*, *Yamauchi* and *Sasaki* combination**

The Examiner has rejected claims 16 and 17 under 35 U.S.C. § 103(a) as being unpatentable over *Nosu* in view of *Yamauchi* and further in view of U.S. Patent No. 5,960,141 to Sasaki et al. ("*Sasaki*"). Applicant respectfully disagrees, and submits that for at least the reasons set forth below, the rejection of claims 16 and 17 should be withdrawn.

Claims 16 and 17 depend from claim 1. By virtue of their dependence from independent claim 1, dependent claims 16 and 17 each require, among other things, "an optoelectronic transducer supported by a substrate," and "an associated optical system that includes a lens attached to the substrate, wherein the lens is unique to the subassembly." As discussed at II(a).

above, however, the Examiner has failed to establish that this limitation, in combination with the other limitations of the rejected claims, is taught or suggested by *Nosu* or *Yamauchi*, either singularly or in combination, or any other reference(s). *Sasaki* is cited for allegedly teaching a "leadframe that provides at least partially encapsulated potting compound mounted thereon..." As such, the Examiner has not established that *Sasaki* cures the deficiencies of the purported combination of *Nosu* and *Yamauchi* with regards to claim 1, discussed above. Thus, even if the purported combination of *Nosu* and *Yamauchi* is combined with *Sasaki* in the allegedly obvious manner set forth in the Office Action, the resulting combination nonetheless fails to include all the limitations of the rejected claims.

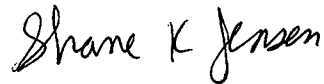
In view of the foregoing discussion, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 16 and 17, at least because the Examiner has failed to establish that the references, when combined in the purportedly obvious fashion, teach or suggest all the limitations of claims 16 or 17. Accordingly, Applicant respectfully submits that the rejection of claims 16 and 17 should be withdrawn.

**CONCLUSION**

In view of the foregoing, Applicant believes that he has addressed every issue raised in the Office Action and has put the claims in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 4th day of May, 2007.

Respectfully submitted,



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